

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 43

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte L.M. MARITZEN and ROLANDO D. DIMAANDAL

Appeal No. 2004-1177
Application No. 08/769,404

ON BRIEF

Before THOMAS, HAIRSTON, and DIXON, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1-44, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

Appellants' invention relates to a platform independent on-line project management tool. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A system for sharing data over a wide area data network, comprising:

a database for including therein said shared data;

a database server, having read and write access to said database, for receiving read and write access requests for said database over said wide area data network; and

a graphical user interface server providing graphical user interfaces to allow user access to said shared data, said graphical user interfaces being generated at the time of said user access, each comprising a set of methods specific to said shared data and associated with user-selectable icons provided to allow users to interact with said database server via web browsers, said database server being located on a different computer system than said web browsers, said methods generating said read and write requests to access said shared data in response to user selection of said icons during said user access, wherein a user associates an object corresponding to at least one of said graphical user interfaces with at least one of said methods to handle an event.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

O'Rourke et al. (O'Rourke)	5,349,658	Sep. 20, 1994
Marlin et al. (Marlin)	5,778,377	Jul. 07, 1998 (filed Nov. 4, 1994)

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Rowland et al. (Rowland)	5,848,412	Dec. 8, 1998 (filed Nov. 19, 1996)
Reed et al. (Reed)	5,862,325	Jan. 19, 1999 (filed Sep. 27, 1996)
Hurvig	5,978,802	Nov. 2, 1999 (filed Jun. 7, 1995)
Dietzman	5,978,804	Nov. 2, 1999 (filed Apr. 11, 1996)

Claims 1-4, 9-27, 29-31, 37, 38, 40, 41, 43, and 44 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hurvig in view of Rowland. Claims 5-8 and 39 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hurvig and Rowland in view of O'Rourke. Claims 28, 34, 35 and 36 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hurvig and Rowland in view of Marlin. Claims 32 and 33 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hurvig and Rowland in view of Reed. Claim 42 stands rejected under 35 U.S.C. § 103 as being unpatentable over Hurvig and Rowland in view of Dietzman.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 41, mailed Dec. 30, 2003) for the examiner's reasoning in support of the rejections, and to appellants' brief (Paper No. 40, filed Nov. 3, 2003) for appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

35 U.S.C. § 103

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness. **See In re Rijckaert**, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that the reference teachings would appear to be sufficient for one of ordinary skill in the relevant art having the references before him to make the proposed combination or other modification. **See In re Lintner**, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972). Furthermore, the conclusion that the claimed subject matter is *prima facie* obvious must be supported by evidence, as shown by some objective teaching in the prior art or by knowledge generally available to one of ordinary skill in the art that would have led that individual to combine the relevant teachings of the references to arrive at the claimed invention. **See In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Rejections based on § 103 must rest on a factual basis with these facts being interpreted without hindsight

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reconstruction of the invention from the prior art. The examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See **In re Warner**, 379 F.2d 1011, 1017, 154 USPQ 173, 177 (CCPA 1967), **cert. denied**, 389 U.S. 1057 (1968). Our reviewing court has repeatedly cautioned against employing hindsight by using the appellant's disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. **See, e.g., Grain Processing Corp. v. American Maize-Prods. Co.**, 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir. 1988).

When determining obviousness, "the [E]xaminer can satisfy the burden of showing obviousness of the combination 'only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in art would lead that individual to combine the relevant teachings of the references.'" **In re Lee**, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), citing **In re Fritch**, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). "Broad conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" **In re Dembiczak**, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). "Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact." **Dembiczak**, 175 F.3d at 999, 50 USPQ2d

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at 1617, citing **McElmurry v. Arkansas Power & Light Co.**, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) .

Further, as pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." **In re Hiniker Co.**, 150 F.3d 1362,1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). Therefore, we look to the limitations set forth in independent claim 1. Appellants argue that the combination of Hurvig and Rowland does not teach or suggest that "a user associates an object corresponding to at least one of said graphical user interfaces with at least one of said methods to handle an event" and wherein at least a graphical user interface is provided by the GUI server. (See brief at pages 7-11.) In response to appellants' argument, the examiner essentially repeats the language from the rejection and concludes that the user is provided with an interface having objects associated with function (methods) to handle requests (events). (See answer at pages 14-16.) From our review of Hurvig and Rowland, we find no express teaching or suggestion of associating a GUI from a GUI server with at least one of said methods to handle an event, and we do not find that the examiner has specifically addressed this argument and merely restates the ground of rejection in the response to the argument. Therefore, we find that the examiner has not established a *prima facie* case of obviousness, and we will not sustain the rejection of independent claim 1 and its

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dependent claims. Moreover, we do not find that O'Rourke, Marlin, Reed or Dietzman remedy the deficiency in the combination of Hurvig and Rowland. Since independent claims 4, 10, 21, and 31 contain similar limitations and the additional references relied upon by the examiner do not remedy the above noted deficiencies, we will not sustain the rejection of independent claims 4, 10, 21, and 31 and their dependent claims.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1-44 under 35 U.S.C. § 103 is reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
KENNETH W. HAIRSTON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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JOSEPH L. DIXON)	
Administrative Patent Judge)	

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